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OFFICE OF PETITIONS

In re Patent of :
Scholler et al. :
Application No. 09/816,014 : DECISION
Filed: March 23, 2001 : ON PETITION
Title of Invention: :
PROCEDURE FOR THE CONTROL OF A :
RESPIRATOR DEVICE AS WELL AS :
APPARATUS FOR MONITORING :


This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed October 22, 2004.

The petition is granted.

The above-identified application became abandoned for failure to file an appeal brief. Applicant filed a Notice of Appeal on October 22, 2003. Thereafter, Applicant was given two months within which to file an Appeal Brief. See, 37 CFR 1.192. The failure to file the brief within the permissible time resulted in dismissal of the appeal. See MPEP § 1215.04. Since there were no allowed claims, the application became abandoned as of the date the brief was due, on December 22, 2003. A Notice of Abandonment was mailed on June 14, 2004¹.

With the instant petition, Petitioner paid the petition fee; submitted a Request for Continued Examination ("RCE"), and fee, and filed a submission in the form of an Amendment. Accordingly, the petition is granted.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney Advisor
Office of Petitions

¹ The Notice of Abandonment incorrectly stated the reason for abandonment of the application as Applicant's failure to reply to the final Office action, mailed April 22, 2003.